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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,060	12/15/2003	Yoav Ben-Or	85150/10	9684

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NEW YORK, NY 10016

EXAMINER
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WILLIAMS, JAMILA O

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/736,060

Applicant(s)

BEN-OR, YOAV

Examiner

Jamila O. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-12 and 14-18 is/are rejected.
- 7) ☒ Claim(s) 6-7 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/15/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outer spine with axially spaced apertures that align with apertures of the inner spine portion and fasteners extending therethrough, as recited in claim 2 (c and d); the at least two split rings, recited in claim 3 (a); three split rings, recited in claim 8; the textured surfaces recited in claims 9-10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3,8,11-12,14-16,18 are rejected under 35 U.S.C. 102(b) as being anticipated by 4,315,642 to Errichiello. Errichello discloses a binder having a ring assembly comprising an elongated frame (94) with at least two split rings (only one split ring shown in figure 6, however multiple rings are contemplated by Errichello col 1 lines 7-8 and lines 53-54) spaced apart axially on the frame and the frame having top and bottom ends (only one end shown in figure 6 but the frame inherently has a top and bottom end).

Errichiello discloses a solid, single layer plastic sheet of substantially uniform thickness across its entire area (fig 6 shows a cross section of the plastic sheet of substantially uniform thickness), the sheet having two score line depressions (22) spaced apart along the length direction and extending transversely across the height direction of the sleeve and defining an inner spine therebetween (16) and a front and rear cover (12,14); the inner spine having an inside surface (fig 6) and an outside surface (40) and top and bottom ends.

Errichiello discloses an elongated outer spine member (38) having an inner and non-planar outer surface (fig 1). The frame of the ring assembly of Errichiello is positioned adjacent the inside surface of the inner spine portion and the outer spine member positioned adjacent the outside surface of the inner spine member (fig 2 and 6). The outer spine member, inner spine portion and frame each have a central longitudinal axis, these elements being positioned to overlie each other with their central longitudinal axes in general alignment (fig 2 and 6). Errichiello further discloses means for securing the outer spine member, inner spine portion and frame together (one portion of a pin or rivet positioned in passage 98 of the frame 94 and the other end of the rivet or pin 104 positioned in the aperture of the outer spine member therefore securing the elements together, see figure 6), as recited in claim 1.

Regarding claims 2-3, Errichiello discloses an elongated outer spine (38) having an inner surface and a non-planar outer surface, the outer spine member positioned against the outer surface (40) of the inner spine portion, including at least two axially spaced apertures that correspondingly align with the apertures in the inner spine (col 5 lines 6-12 of Errichiello). The fastener extending through one of the apertures in the inner spine member, through the correspondingly aligned aperture in the inner spine portion and through the correspondingly aligned hole in the frame (fig 6).

Regarding claim 8 wherein the ring assembly has three split rings, each spaced apart axially from the others on the frame, although figure 6 shows only one split ring, three split ring assemblies are contemplated by Errichiello (col 1 lines 7-8 and lines 53-54; col 4 lines 63-68).

Regarding claims 9-10, Errichiello discloses that the front and rear covers have an inside and outside surface and that at least the outside surface of the front and rear cover is textured (col 6 line 10 of Errichiello).

Regarding claim 12 and 14, Errichiello discloses the fastener having a terminal end that projects through the frame (fig 6 shows the passage 98 where the end of the pin or rivet is received and this area has an enlarged portion, it is inherent that although not shown, the rivet terminal end would follow this same contour).

Regarding claim 15, Errichiello discloses the outer surface of the outer spine member is convexly curved outwardly (fig 1).

Regarding claim 16, see rejections above.

Regarding claim 18, Errichiello discloses a method of making a binder comprising providing a ring assembly, providing a continuous sheet of solid, single layer, plastic having a length direction and height direction having an initial uniform thickness over its entire area (the examiner takes the position that prior to the being shaped, the plastic of Errichiello has a uniform thickness); forming two score depressions (22) on the sheet spaced along the length direction and extending transversely across the sheet in the height direction and defining an inner spine (16), front cover and rear cover (12,14); providing an elongated, injection molded outer spine member (38) having an inner surface and non planar outer surface (fig 1); positioning the ring assembly to overline the inner surface of the inner spine (fig 6); positioning the outer spine to overline the outer surface (40) of the inner spine portion (fig 6); providing means for securing together the ring assembly, inner spine portion and outer spine

member (rivet that fits in passage 98, see figure 6) and securing together the ring assembly, inner spine portion and outer spine member (fig 6).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Errichiello in view of 3,175,847 to McKowen. Errichiello discloses all of the elements of the claims as applied above, including having an outer spine member with projections extending from the inner surface (spine with rivets, shown in figure 6). Errichiello does not however disclose that the fasteners on the outer spine are integrally molded therewith and the method step of deforming the terminal ends of the fastening elements, thereby binding the ring assembly, inner spine and outer spine member together.

McKowen teaches having an injection molded outer spine member with fasteners having projections extending from the inner surface of the outer spine portion and being integrally molded therewith (fig 3 outer spine member 32 and fastening projections 40). McKowen further teaches the method of binding the ring assembly, inner spine and outer spine member together by pressure of heating the terminal ends of the projections (col 2 lines 45-49 of McKowen). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaches of an outer spine

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member with integrally molded fastening projections and the method of deforming the terminal ends of the projections as taught by McKowen with the binder of Errichiello for the purpose of providing a secure connection for elements of the binder.

6. Claims 1,3,8-12,14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3,175,847 to McKowen in view of Errichiello. McKowen discloses all of the elements of the claims including having a binder comprising a ring assembly (44), a front and rear cover (16,14), an inner spine (18), an elongated outer spine member (32) having an inner surface and non planar outer surface (fig 3) and having the frame of the ring assembly positioned adjacent the inside surface of the inner spine portion, the outer spine member positioned adjacent the outside surface of the inner spine portion, the outer spine member, inner spine member and frame each having a central axis and these three elements being positioned to overlie each other and means for securing the elements together (fig 3-5 and col 2 lines 45-49 of McKowen), recited in claim 1.

McKowen further discloses that the elongated outer spine member includes at least two fasteners extending from the inner surface (40 in figure 3 or 20 in figure 1), the outer spine member positioned against the outside surface of the inner spine portion, each fastener extending from the outer spine member through one of the apertures in the inner spine portion, through the correspondingly aligned hole in the frame (44 in figure 3, 24 in figure 1) and adapted to secure together the outer spine member, inner spine portion and frame (see figures 1-5), as recited in claim 3.



McKowen discloses that the ring assembly has three split rings (fig 1), as recited in claim 8.

McKowen discloses that the outer spine is injection molded and has fasteners with projections extending from the inner surface of the outer spine and being integrally molded therewith (fig 1 projections 20, fig 3 projections 40) and that the terminal end that projects through the frame is dimensioned to prevent withdrawal from the frame (col 2 lines 12-21 and lines 42-49), as recited in claims 11-12 and 14.

McKowen discloses that the outer surface of the outer spine member is convexly curved outwardly (fig 1 and 3), as recited in claim 15.

Regarding claim 16, see above rejections to McKowen.

McKowen does not however disclose a solid, single layer plastic sheet of substantially uniform thickness across its entire area for the front, rear and inner spine portions. Errichiello teaches having a one piece molded plastic binder (col 3 lines 8-18 of Errichiello). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the material teaching of Errichiello with the binder of McKowen for the purpose of providing a more durable binder.

Regarding method claims 17-18, McKowen discloses all of the claimed method steps but for the step of providing a continuous sheet of solid single layer plastic for the binder. Errichiello teaches the method of providing an injection molded binder of a continuous single layer plastic (col 3 lines 8-18 of Errichiello) having a length direction, height direction and an initial uniform thickness (examiner takes position that the thickness is uniform before being shaped). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to use the material teaching of Errichiello with the binder of McKown for the purpose of providing a more durable binder.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3,175,847 to McKowen in view of Errichiello and further in view of 1,546,120 to Engel et al (hereinafter Engel). McKowen (modified by Errichiello) discloses all of the elements of the claims as applied above but does not disclose having a flange as recited in claims 4-5. Engel teaches having an outer spine member (2) having a flange on each end (8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the flange of Engel with the outer spine of McKowen (modified by Errichiello) for the purpose of covering the inner spine.

#### ***Allowable Subject Matter***

Claims 6-7,13 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. This is simply art of interest and was not used to reject any claims in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O. Williams whose telephone number is 571-272-4431. The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-3484. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JW 6/9/2006

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER